

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: GENETRONICS, INC.

Int'l. Appln. No. 10/516,757

PCT No.; PCT/US03/09031

Int'l. Filing Date: 23 March 2003 (23.03.2003)

Priority Date: 25 March 2002 (25.03.2002)

Attorney Docket No.: GTI-1490-US

Title: MINIMIZING METAL TOXICITY DURING ELECTROPORATION  
ENHANCED DELIVERY OF POLYNUCLEOTIDES

RESPONSE TO DECISION UNDER 37 CFR 1.137(B)  
TO DISMISS WITHOUT PREJUDICE

Mail Stop: PCT  
Attention: Cynthia M. Kratz, Attorney Advisor  
Office of PCT Legal Administration  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner Kratz:

In response to the Decision to Dismiss Petition Without Prejudice mailed on December 17, 2007, enclosed please find the additonal \$40.00 fee amount which was unintentionally not included in the payment of the Petition filed on October 5, 2007.

Enclosed are copies of Petition and supporting documents as filed on October 5, 2007 along with this response and Form PTO-2038 for payment of the \$40.00 not included in the October 5, 2007 filing.

\*\*\*\*\*  
CERTIFICATE OF MAILING PURSUANT TO 37 CFR § 1.10:

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service's "Express Mail Post Office to Addressee" and is addressed to: Mail Stop: MISSING PARTS, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EXPRESS MAIL TRANSMITTAL NO. EB 014308180 US

DANIEL M. CHAMBERS  
Name

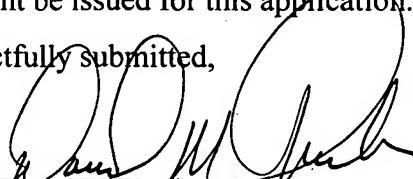
January 23, 2008  
Date

Signature

Based on the enclosed documents and payment of \$40.00, Applicants respectfully request a Decision to Withdraw Abandonment be issued for this application.

Respectfully submitted,

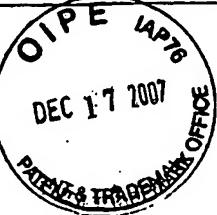
By:

  
Daniel M. Chambers  
Attorney for Applicants  
USPTO Reg. No.: 34,561

Date: January 23, 2008  
BioTechnology Law Group  
c/o PortfolioIP  
P.O. Box 52050  
Minneapolis, MN 55402  
Telephone: (858) 350-9690  
Facsimile: (858) 350-9691  
[dan@biotechnologylawgroup.com](mailto:dan@biotechnologylawgroup.com)



UNITED STATES PATENT AND TRADEMARK OFFICE



07 DEC 2007

ITZ  
Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Daniel M Chambers  
Biotechnology Law Group  
658 Marsolan Avenue  
Solana Beach CA 92075

In re Application of  
**RUBASSAY**  
Application No.: 10/516,757  
PCT No.: PCT/US03/09031  
Int. Filing Date: 25 March 2003  
Priority Date: 25 March 2002  
Attorney Docket No.: GTI-1490-USN  
For: MINIMIZING METAL TOXICITY  
DURING ELECTROPORATION ENHANCED  
DELIVERY OF POLYNUCLEOTIDES

**DECISION**

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

A review of the above referenced application shows that on 26 August 2005, a decision was mailed to applicant granting his petition to revive under 37 CFR 1.137(b) filed 04 December 2004 in the above-captioned application.

However, on 27 September 2005, a decision vacating the decision mailed on 26 August 2005 was mailed indicating that applicant had failed to pay the appropriate basic national fee.

On 20 August 2007, a Notification of Abandonment was mailed to applicant.

On 05 October 2007, a petition to revive under 37 CFR 1.137(b) was filed.

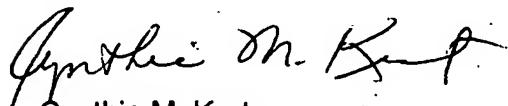
A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

A review of the application file reveals that the basic national fee of \$310 was paid. However, applicant only paid a petition fee of \$1500. The correct fee for a petition to revive an unintentionally abandoned application on 05 October 2007 was

\$1540. Applicant did not provide a deposit account authorization for the shortfall. Thus, the requirements of 37 CFR 1.137(b) have not been satisfied. The request to revive the application abandoned under 35 U.S.C. 371(d) is dismissed as to the National stage in the United States of America.

Applicant's petition to revive international application no. PCT/US03/09031 under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE**.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: 571-272-3286  
Facsimile: 571-273-0459

|   |  |   |
|---|--|---|
| <b>TRANSMITTAL LETTER TO THE UNITED STATES<br/>DESIGNATED/ELECTED OFFICE (DO/EO/US)<br/>CONCERNING A SUBMISSION UNDER 35 U.S.C. 371</b>   |  | <b>ATTORNEY'S DOCKET NUMBER</b><br>GTI-I490-US                |
| INTERNATIONAL APPLICATION NO.<br>PCT/US2003/09031   | INTERNATIONAL FILING DATE<br>25 March 2003 | U.S. APPLICATION NO. (If known, see 37 CFR 1.5)<br>10/516,757 |
| TITLE OF INVENTION MINIMIZING METAL TOXICITY DURING ELECTROPORATION ENHANCED DELIVERY OF POLYNUCLEOTIDES  |  |   |
| APPLICANT(S) FOR DO/EO/US Dietmar Rabussay  |  |   |
| Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:   |  |   |
| <p>1. <input type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a submission under 35 U.S.C. 371.</p> <p>2. <input checked="" type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a submission under 35 U.S.C. 371.</p> <p>3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.</p> <p>4. <input type="checkbox"/> The US has been elected (Article 31).</p> <p>5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371(c)(2))           <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau).</li> <li>b. <input checked="" type="checkbox"/> has been communicated by the International Bureau.</li> <li>c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).</li> </ul> </p> <p>6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).           <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> is attached hereto.</li> <li>b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).</li> </ul> </p> <p>7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))           <ul style="list-style-type: none"> <li>a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).</li> <li>b. <input type="checkbox"/> have been communicated by the International Bureau.</li> <li>c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired.</li> <li>d. <input type="checkbox"/> have not been made and will not be made.</li> </ul> </p> <p>8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).</p> <p>9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).</p> <p>10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).</p> |  |   |
| Items 11 to 20 below concern document(s) or information included:   |  |   |
| <p>11. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98.</p> <p>12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.</p> <p>13. <input type="checkbox"/> A preliminary amendment.</p> <p>14. <input type="checkbox"/> An Application Data Sheet under 37 CFR 1.76.</p> <p>15. <input type="checkbox"/> A substitute specification.</p> <p>16. <input checked="" type="checkbox"/> A power of attorney and/or change of address letter.</p> <p>17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821- 1.825.</p> <p>18. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4).</p> <p>19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).</p>  |  |   |

This collection of information is required by 37 CFR 1.414 and 1.491-1.492. The information is required to obtain or retain a benefit by the public, which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 minutes to complete, including gathering information, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

|  |              |   |         |   |                  |
|--|--------------|---|---------|---|------------------|
| U.S. APPLICATION NO. (if known, see 37 CFR 1.5)<br>10/516,757  |              | INTERNATIONAL APPLICATION NO.<br>PCT/US2003/09031                             |         | ATTORNEY'S DOCKET NUMBER<br>GTI-1490-US |                  |
| 20. Other items or information:<br><br>Transmittal; Petition to Revive; Stmt to W/D Abandonment; PCT/DO/EO/909(371); Decision; IDS No. 2; SBO8A; References (22 items); WO 03/083837A2; Int'l Search Rpt; PCT/IB/308; Decl; Assignment; IDS No. 1; Change of Correspondence Address;   |              |   |         |   |                  |
| The following fees have been submitted   |              |   |         | CALCULATIONS                            | PTO USE ONLY     |
| 21. <input checked="" type="checkbox"/> Basic national fee (37 CFR 1.492(a))..... \$300  |              |   |         | \$ 310.00                               |                  |
| 22. <input checked="" type="checkbox"/> Examination fee (37 CFR 1.492(c))<br><br>If the written opinion prepared by ISA/US or the international preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0<br>All other situations..... \$200  |              |   |         | \$ 210.00                               |                  |
| 23. <input checked="" type="checkbox"/> Search fee (37 CFR 1.492(b))<br>If the written opinion of the ISA/US or the International preliminary examination report prepared by IPEA/US indicates all claims satisfy provisions of PCT Article 33(1)-(4)..... \$0<br>Search fee (37 CFR 1.445(a)(2)) has been paid on the international application to the USPTO as an International Searching Authority..... \$100<br>International Search Report prepared by an ISA other than the US and provided to the Office or previously communicated to the US by the IB..... \$400<br>All other situations..... \$500 |              |   |         | \$ 410.00                               |                  |
| <b>TOTAL OF 21, 22 and 23 =</b>  |              |   |         | <b>930.00</b>                           |                  |
| <input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing in compliance with 37 CFR 1.821(c) or (e) or computer program listing in an electronic medium) (37 CFR 1.492(j)).<br>The fee is \$250 for each additional 50 sheets of paper or fraction thereof.  |              |   |         |   |                  |
| Total Sheets   | Extra Sheets | Number of each additional 50 or fraction thereof (round up to a whole number) | RATE    |   |                  |
| 23 - 100 =   | 0 /50 =      |   | x \$250 | \$ 0.00                                 |                  |
| Surcharge of \$130.00 for furnishing any of the search fee, examination fee, or the oath or declaration after the date of commencement of the national stage (37 CFR 1.492(h)).  |              |   |         | \$ 0.00                                 |                  |
| CLAIMS   | NUMBER FILED | NUMBER EXTRA  | RATE    | \$                                      |                  |
| Total claims   | 7 - 20 =     |   | x \$ 50 | \$ 0.00                                 |                  |
| Independent claims   | 2 - 3 =      |   | x \$200 | \$ 0.00                                 |                  |
| MULTIPLE DEPENDENT CLAIM(S) (if applicable)  |              |   |         | + \$360                                 | \$ 0.00          |
| <b>TOTAL OF ABOVE CALCULATIONS =</b>   |              |   |         | <b>\$ 930.00</b>                        |                  |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Fees above are reduced by ½  |              |   |         |   |                  |
|  |              |   |         | <b>SUBTOTAL =</b>                       | <b>\$ 930.00</b> |
| Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(i)).  |              |   |         | +                                       | \$               |
|  |              |   |         | <b>TOTAL NATIONAL FEE =</b>             | <b>\$ 930.00</b> |
| Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property   |              |   |         | +                                       | \$ 0.00          |
| <b>TOTAL FEES ENCLOSED =</b>   |              |   |         | <b>\$ 930.00</b>                        |                  |
|  |              |   |         | Amount to be refunded:                  | \$               |
|  |              |   |         | Amount to be charged                    | \$               |

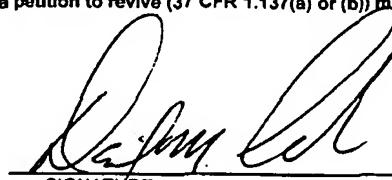
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

- a.  A check in the amount of \$ 2430.00 to cover the above fees is enclosed. PETITION TO REVIVE FEES INCLUDED
- b.  Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.
- c.  The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. \_\_\_\_\_. A duplicate copy of this sheet is enclosed.
- d.  Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.

SEND ALL CORRESPONDENCE TO:

c/o PortfolioIP  
P.O. Box 52050  
Minneapolis, MN 55402  
Telephone: 858-350-9690  
Facsimile: 858-350-9691  
Email: dan@biotechnologylawgroup.com



SIGNATURE

Daniel M. Chambers

NAME

34,561

REGISTRATION NUMBER

|   |  |  |
|---|--|--|
| <b>PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT<br/>DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b> |  | Docket Number<br>(Optional)<br>GTI-1490-US |
|---|--|--|

First Named Inventor: Dietmar P. Rabussay

International (PCT) Application No.: PCT/US2003/009031

U.S. Application No.: 10/516,757  
(if known)

Filed: December 04, 2004

Title: Minimizing Metal Toxicity During Electroporation Enhanced Delivery of Polynucleotides

Attention: PCT Legal Staff  
 Mail Stop PCT  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.495(b) or (c) as applicable. The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.495(h).

#### **APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee
- (2) Proper reply
- (3) Terminal disclaimer with disclaimer fee which is required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

Small entity - fee \$ .00 (37 CFR 1.17(m)). Applicant claims small entity status.  
 See 37 CFR 1.27.

Other than small entity - fee \$ 1500 (37 CFR 1.17(m))

**2. Proper reply**

A. The proper reply (the missing 35 U.S.C. 371(c) requirement(s)) in the form of 1. Application attached documents (identify type of reply): 2. Declaration  
3. Assignment

has been filed previously on \_\_\_\_\_

is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## 3. Terminal disclaimer with disclaimer fee

- Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

5 Oct 2007

Date

Daniel M. Chambers

34,561

Typed or Printed Name

Registration Number, if applicable

527 N. Highway 101, Suite E

858 350 9690

Address

Telephone Number

Solana Beach, CA 92075-1173

## Address Enclosed for Filing:

1. Transmittal;
  2. Petition for Revival of an Int'l Application;
  3. Statement to Withdraw Abandonment; Notice of Abandonment; & and Notice of Withdrawal of Abandonment attached thereto;
  4. Information Disclosure Statement No. 2
  5. SBO8A;
  6. References (22 items);
- Courtesy Copies of:
7. WO 03/083837A2 Published on 9 Oct. 2003  
(PCT/US03/09031 filed 25 March 2003);
  8. International Search Report (WO 03/083837 A3);
  9. Form PCT/IB/308;
  10. Declaration;
  11. Recorded Assignment;
  12. Information Disclosure No. 1 filed December 22, 2006;
  13. Change of Correspondence address filed March 5, 2007;

Enclosures:  Response Fee Payment Terminal Disclaimer Other (please identify):

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re the Application of:** )  
Rabussay, Dietmar )      **Examiner:** TBD  
**Serial No.:** 10/516,757 )      **Art Unit:** 3763  
**I.A. Filing Date:** March 25, 2003 )      **Docket No.:** GTI-1490-US  
**For:** INTRADERMAL DELIVERY OF ACTIVE )  
AGENTS BY NEEDLE- FREE INJECTION )  
AND ELECTROPORATION )

---

**STATEMENT WITH PETITION TO WITHDRAW ABANDONMENT**  
**(37 CFR §1.181(b))**

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully submits this request to withdraw abandonment under 37 CFR 1.181(b) for the following reasons and enclosed here with are exhibits in support thereof:

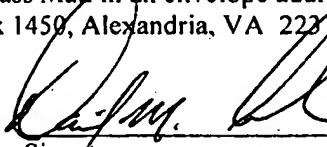
1. Due to a change in fees the proper fee amount was unintentionally filed and the 26 August 2005 U.S. Patent Office decision to revive was vacated and dismissed without prejudice. Please see courtesy copy of the Notice of Abandonment attached hereto.
2. Enclosed herewith are the current total fees due and with our new submission of a petition to revive.

**CERTIFICATE OF MAILING PURSUANT TO 37 CFR § 1.8:**

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop: MISSING PARTS, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450

DANIEL M. CHAMBERS  
Name

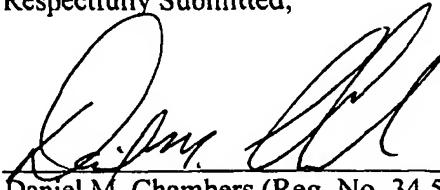
5 October 2007  
Date

  
Signature

Applicants respectfully request that the Notice of Abandonment be withdrawn and a Notice Withdrawing the Abandonment be forwarded to the Applicant's attorney.

Applicant further believes that the enclosed fees are due in connection with the Petition and should serve as payment of all fees in full. Should there be a fee due, please immediately contact the undersigned attorney at (858) 350-9690.

Respectfully Submitted,

By:   
Daniel M. Chambers (Reg. No. 34,561)  
Attorney for Applicant

DATED: October 5, 2007  
BioTechnology Law Group  
c/o PortfolioIP  
P.O. Box 52050  
Minneapolis, MN 55402  
Telephone: (858) 350-9690  
Facsimile: (858) 350-9691  
Email: [dan@biotechnologylawgroup.com](mailto:dan@biotechnologylawgroup.com)


**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

|                             |                       |                               |
|-----------------------------|-----------------------|-------------------------------|
| U.S. APPLICATION NUMBER NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO.              |
| 10/516,757                  | Dietmar Rabussay      | GTI-1490-USN                  |
|                             |                       | INTERNATIONAL APPLICATION NO. |
|                             |                       | PCT/US03/09031                |
| I.A. FILING DATE            |                       | PRIORITY DATE                 |
| 03/25/2003                  |                       | 03/25/2002                    |

35938  
 BIOTECHNOLOGY LAW GROUP  
 C/O PORTFOLIOIP  
 PO BOX 52050  
 MINNEAPOLIS, MN 55402

**CONFIRMATION NO. 6894**

371  
**ABANDONMENT/TERMINATION  
 LETTER**



\*OC000000024117053\*

Date Mailed: 08/20/2007

**NOTIFICATION OF ABANDONMENT**

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to provide the full U.S. Basic National Fee by 30 months (37 CFR 1.495(b)(2)).

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

SHAKEEL AHMED

Telephone: (703) 308-9140 EXT 208

**PART 1 - ATTORNEY/APPLICANT COPY**

FORM PCT/DO/EO/909 (371 Abandonment Notice)

|                    |          |
|--------------------|----------|
| <b>INTELLEVATE</b> |          |
| AUG 24 2007        |          |
| RECEIVED           |          |
| Coded              | Verified |



27 SEP 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Daniel M Chambers  
Biotechnology Law Group  
658 Marsolan Avenue  
Solana Beach CA 92075

In re Application of  
**RUBASSAY**  
Application No.: 10/516,757  
PCT No.: PCT/US03/09031  
Int. Filing Date: 25 March 2003  
Priority Date: 25 March 2002  
Attorney Docket No.: GTI-1490-USN  
For: MINIMIZING METAL TOXICITY  
DURING ELECTROPORATION ENHANCED  
DELIVERY OF POLYNUCLEOTIDES

DECISION  
ON PETITION UNDER  
37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of matters arising under 35 U.S.C. 371.

On 26 August 2005, a decision was mailed to applicant granting his petition to revive under 37 CFR 1.137(b) filed 04 December 2004 in the above-captioned application. For the reasons set forth below, the decision mailed on 26 August 2005 is hereby VACATED. The petition to revive under 27 CFR 1.137(b) filed on 04 December 2004 is DISMISSED WITHOUT PREJUDICE. The application remains ABANDONED.

Upon closer review of the application file and USPTO finance records, it noted that applicant did not pay the full basic national fee due upon the filing of a petition to revive. Applicant paid \$100, the basic national fee for an application where the international preliminary examination revealed that all claims satisfied provisions of PCT Article 33(1)-(4). However, in the instant case, there was no international preliminary examination report, satisfying the provisions of the Article. For the instant application, the application fee required upon entering the national stage was \$790, the basic national fee required where the U.S. acted in its capacity as International Searching Authority. Applicant did not provide a deposit account number or authorization to charge any additional fees to the deposit account.

Since applicant failed to pay the full basic national fee required with the petition to revive, the proper reply was not submitted. Thus, the petition to revive must be dismissed without prejudice and the application remains abandoned.

Applicant is advised to file a renewed petition to revive along with the appropriate basic national fee. Applicant is reminded that on 08 December 2004, the basic national fee under 37 CFR 1.492(a) was changed to \$300.

26 AUG 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Daniel M Chambers  
Biotechnology Law Group  
658 Marsolan Avenue  
Solana Beach CA 92075

In re Application of  
**RUBASSAY**  
Application No.: 10/516,757  
PCT No.: PCT/US03/09031  
Int. Filing Date: 25 March 2003  
Priority Date: 25 March 2002  
Attorney Docket No.: GTI-1490-USN  
For: MINIMIZING METAL TOXICITY  
DURING ELECTROPORATION ENHANCED  
DELIVERY OF POLYNUCLEOTIDES

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

The petition to revive under 37 CFR 1.137(b) filed 04 December 2004 in the above-captioned application is hereby **GRANTED** as follows:

Applicant's statement that the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

A review of the application file reveals that the required petition fee of \$1370 was paid. Thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is granted as to the National stage in the United States of America. The declaration in compliance with 37 CFR 1.497(a) and (b) has been provided and is acceptable.

This application is being forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 04 December 2004.

Cynthia M. Kratz  
Attorney Advisor  
Office of PCT Legal Administration

Telephone: 571-272-3286  
Facsimile: 571-273-0459